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11 Attorneys for Defendant
GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,

16 Plaintiffs,

17 v.

18 GOOGLE INC.,

19 Defendant.
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Case No. 3:10-cv-03561 WHA

**GOOGLE INC.'S RESPONSE TO ECF
NO. 1535**

Dept. Courtroom 8, 19th Fl.
Judge: Hon. William Alsup

Defendant Google Inc. (“Google”) hereby submits the following responses to the questions posed in the Court’s “Further Request for Information Re Proposed Social Media Searches” dated March 14, 2016. ECF No. 1535.

Question #1:

To what extent will your investigators be merely members of the general public versus having and logging onto Facebook accounts (and other social media accounts) in conducting searches?

Google’s Response to Question #1

Google responds that, were the Court to allow Internet searches of social media in this case, investigators would not be logged into Facebook or other social media accounts in conducting searches.

Question #2:

In the past, Facebook’s default privacy setting was to extend access to “friends of friends.” This means that if the investigator is a friend of a friend of a prospective juror (and the juror has rested on that default setting or otherwise made his or her profile accessible to friends of friends) then the investigator will be able to see personal information of the prospective juror not otherwise public. To what extent do you contend that you should be allowed to exploit the fortuity of a friend of a friend circumstance? And, how would you even know that access was being allowed on that basis rather than on a public basis?

Google’s Response to Question #2

Google does not propose allowing logged-in searches of Facebook or other social media in this case.

Question #3:

The judge presumes that neither side would exploit a situation in which the investigator is a direct “friend” of the prospective juror so as to access information available only to direct friends of the prospective juror. Please confirm (or deny) this assumption.

Google’s Response to Question #3

Google confirms the Court’s assumption with respect to Google.

Question #4:

For each of your proposed investigators who will log into Facebook (or other social media accounts), state their name and the number of friends they have

1 established on their Facebook accounts (or other quantifiable connections such as
2 followers on Twitter).

3 Google's Response to Question #4

4 Google does not propose allowing logged-in searches of Facebook or other social media
5 in this case.

6 Question #5:

7 State how you intend to use Facebook (or other) information regarding (i) political
8 preferences of prospective jurors, (ii) their religious preferences, (iii) their
9 relationship status, (iv) their photographs, (v) books, movies, and other items they
10 have "liked," (vi) their favorite quotes, (vii) their location "check-ins," and (viii)
11 their postings.

12 Google's Response to Question #5

13 Google does not propose allowing logged-in searches of Facebook or other social media
14 in this case.

15 Question #6:

16 Give at least three concrete examples of information you expect to find on a
17 prospective juror that would lead to a for-cause challenge that would be unlikely to
18 surface during normal voir dire.

19 Google's Response to Question #6

20 Google is unclear whether the Court's question concerns any Internet search, or whether it
21 is specifically concerning the kind of logged-in searches of social media that are the subject of the
22 Court's other inquiries. To the extent the Court's question concerns logged-in searches, Google
23 does not propose allowing logged-in searches of Facebook or other social media in this case. To
24 the extent the Court's question concerns general Internet searches, Google does not know what
25 concrete information might be found concerning unnamed prospective jurors that would not
26 surface during voir dire but states that Internet searches can reveal public statements of bias
27 concerning (i) Oracle, (ii) Google, (iii) copyright issues, or (iv) other topics relevant to this case
28 and contained in, for example, blogs or other public Internet posts. That information might be
relevant to voir dire but might not be directly responsive to normal voir dire questions.

1 Dated: March 17, 2016

KEKER & VAN NEST LLP

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3 By: /s/ Robert A. Van Nest
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